

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 359 be amended to read as follows:

- 1 Page 4, line 1, begin a new paragraph and insert:
- 2 SECTION 2. IC 4-13-18 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2006]:
- 5 Chapter 18. Drug Testing of Employees of Public Works
- 6 Contractors
- 7 Sec. 1. This chapter applies only to a public works contract
- 8 awarded after June 30, 2006.
- 9 Sec. 2. As used in this chapter, "bid" includes a quotation.
- 10 Sec. 3. (a) As used in this chapter, "contractor" refers to a
- 11 person who:
- 12 (1) submits a bid to do work under a public works contract;
- 13 or
- 14 (2) does any work under a public works contract.
- 15 (b) The term includes a subcontractor of a contractor.
- 16 Sec. 4. As used in this chapter, "public works contract" refers
- 17 to any of the following:
- 18 (1) A public works contract covered by IC 4-13.6.
- 19 (2) A public works contract covered by IC 5-16 and entered
- 20 into by a state agency.
- 21 (3) A state highway contract covered by IC 8-23-9.
- 22 Sec. 5. (a) A solicitation for a public works contract must
- 23 require each contractor that submits a bid for the work to submit
- 24 with the bid a written plan for a program to test the contractor's

employees for drugs.

(b) A public works contract may not be awarded to a contractor whose bid does not include a written plan for an employee drug testing program that complies with this chapter.

Sec. 6. (a) A contractor's employee drug testing program must satisfy all of the following:

(1) Each of the contractor's employees must be subject to a drug test at least one (1) time each year.

(2) Subject to subdivision (1), the contractor's employees must be tested randomly. At least two percent (2%) of the contractor's employees must be randomly selected each month for testing.

(3) The program must contain at least a five (5) drug panel that tests for the following:

(A) Amphetamines.

(B) Cocaine.

(C) Opiates (92000 ng/ml).

(D) PCP.

(E) THC.

(4) The program must impose progressive discipline on an employee who fails a drug test. The discipline must have at least the following progression:

(A) After the first positive test, an employee must be:

(i) suspended from work for thirty (30) days;

(ii) directed to a program of treatment or rehabilitation; and

(iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

(B) After a second positive test, an employee must be:

(i) suspended from work for ninety (90) days;

(ii) directed to a program of treatment or rehabilitation; and

(iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

(C) After a third or subsequent positive test, an employee must be:

(i) suspended from work for one (1) year;

(ii) directed to a program of treatment or rehabilitation; and

(iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

The program may require dismissal of the employee after any positive drug test or other discipline more severe than is described in this subdivision.

(b) An employer complies with the requirement of subsection (a) to direct an employee to a program of treatment or rehabilitation if the employer does either of the following:

(1) Advises the employee of any program of treatment or

1           rehabilitation covered by employer provided insurance.

2           (2) If the employer does not provide insurance that covers  
3           drug treatment or rehabilitation programs, the employer  
4           advises the employee of agencies known to the employer that  
5           provide drug treatment or rehabilitation programs.

6           Sec. 7. (a) The public works contract must provide for the  
7           following:

8           (1) That the contractor implement the employee drug testing  
9           program described in the contractor's plan.

10          (2) Cancellation of the contract by the agency awarding the  
11          contract if the contractor:

12               (A) fails to implement its employee drug testing program  
13               during the term of the contract;

14               (B) fails to provide information regarding  
15               implementation of the contractor's employee drug  
16               testing program at the request of the agency; or

17               (C) provides to the agency false information regarding  
18               the contractor's employee drug testing program.

19          (b) The provisions of the public works contract relating to  
20          cancellation of the contract by the agency awarding the contract  
21          apply to cancellation of the public works contract under this  
22          section.

(Reference is to ESB 359 as printed February 21, 2006.)

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Representative VANHAAFTEN